



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

July 12, 1990

Mr. Michael Anthony Moss  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR90-334

Dear Mr. Moss:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9145.

The City of Houston received two open records requests for records relating to "land use at the site of the proposed West Side Airport." We have considered the exception you claimed, specifically section 3(a)(3), and have reviewed the documents at issue. The requested documents are directly related to litigation that was pending in federal court at the time the open records requests were made. Consequently, you may withhold the requested documents at this time pursuant to section 3(a)(3). See Open Records Decision No. 551 (1990) (copy enclosed).

We assume, however, that none of the information in the records at issue has previously been made available to the opposing parties in the litigation, e.g. through discovery or through disclosure in court. No section 3(a)(3) interest exists with respect to information already obtained by all parties to the litigation, e.g. through discovery or by court order. Open Records Decision Nos. 349, 320 (1982). If the opposing party in the lawsuit has had access to any of the information in these records, there would be no justification for now withholding that information from the requestors pursuant to section 3(a)(3). In such an instance, the requested information must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a

published open records decision. If you have questions about this ruling, please refer to OR90-334.

Yours very truly,

*David Newton*

David A. Newton  
Assistant Attorney General  
Opinion Committee

DN/RWP/le

Ref.: ID# 9145  
ID# 9144  
ID# 9219

Enclosure: Open Records Decision No. 551

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